

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

JERMAINE L. SMITH, :
 :
 Plaintiff : CIVIL ACTION NO. 3:21-1416
 :
 v. : (JUDGE MANNION)
 :
 J. MOSS, et al., :
 :
 Defendants :

ORDER

In accordance with this Court's memorandum issued this same day, IT

IS HEREBY ORDERED THAT:

1. Plaintiff's motion to proceed *in forma pauperis* is construed as a motion to proceed without full prepayment of fees and costs and the motion (Doc. 5) is **GRANTED**.
2. The Complaint (Doc. 1) is deemed filed.
3. Plaintiff must, and has agreed to, pay the full \$350.00 filing fee regardless of the outcome of the litigation. (See Doc. 5).
4. Pursuant to 28 U.S.C. §1915(b)(1) and (2), the Superintendent/Warden, or other appropriate official at Plaintiff's place of confinement is directed to deduct an initial partial filing fee of 20% of the greater of:
 - (A) the average monthly deposits in the inmate's prison account for the past six (6) months, or
 - (B) the average monthly balance in the inmate's prison account for the past six (6) months.

The initial partial filing fee shall be forwarded to the Clerk of the United States District Court for the Middle District of Pennsylvania, P.O. Box 1148, Scranton, Pennsylvania, 18501-1148, to be credited to the above-captioned docket number. In each succeeding month, when the amount in the Plaintiff's inmate prison account exceeds \$10.00, the Superintendent/Warden, or other appropriate official, shall forward payments to the Clerk of Court equaling 20% of the preceding month's income credited to Plaintiff's prison account until the \$350.00 fee is paid. Each payment shall reference the above-captioned docket number.

5. The Clerk of Court is directed to send a copy of this Order to the Superintendent/Warden of the institution wherein Plaintiff is presently confined.
6. Plaintiff's complaint is **DISMISSED without prejudice** pursuant to 28 U.S.C. §1915(e)(2)(B)(ii).
7. The Clerk of Court is directed to **CLOSE** this case.
8. Any appeal from this Order is **DEEMED** frivolous and not in good faith. See 28 U.S.C. §1915(a)(3).

s/ Malachy E. Mannion
MALACHY E. MANNION
United States District Judge

DATE: August 26, 2021
21-1416-01-ORDER